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OFFICE OF PETITIONS

In re Application of :
Blatter et al. :
Application No.: 09/649,975 :
Filing Date: August 29, 2000 :
Docket No.: RCA 88391A :
For: Upgradable On-Screen Display System :

DECISION ON
PETITION UNDER
37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed on January 13, 2005.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as of midnight on June 19, 2002 for failure to timely reply to the final Office action mailed on December 19, 2001. A Notice of Abandonment was mailed on August 27, 2002.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c). The instant petition lacks item(s) (1).

Although the petition is accompanied by an amendment, petitioner is not entitled by right to entry of said amendment because a final rejection has been mailed in this application. The examiner of record, Huy Nguyen, has indicated that the amendment filed on January 13, 2005 would not be entered (*see* the attached Advisory Action). As such, petitioner has not filed the "required reply" to the outstanding final Office action. See 37 CFR 1.135(b). In the absence of the required reply to the final Office action mailed on December 19, 2001, it would be inappropriate to grant the

to the final Office action mailed on December 19, 2001, it would be inappropriate to grant the requested relief at this time.

The above-identified application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the USPTO).

Further correspondence with respect to this matter should be addressed as follows:

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The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned.



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